

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**

ERIC S. MOORE, *et al.*,

Plaintiffs,

v.

Civil Action No. 4:11cv122
LEAD

LAW OFFICES OF SHAPIRO & BURSON, LLP,

Defendant.

SANDRA WATERS-LEVY,

Plaintiff,

v.

Civil Action No. 4:12cv45

LAW OFFICES OF SHAPIRO & BURSON, LLP,

Defendant.

CHRISTIAN ANDRADE, *et al.*,

Plaintiffs,

v.

Civil Action No. 2:11cv523

SHAPIRO & BURSON, LLP, et al.,

Defendants.

VALENTINA GUDYM,

Plaintiff,

v.

Civil Action No. 4:12cv85

LAW OFFICES OF SHAPIRO, BROWN & ALT, LLP,
et al.

Defendants.

GLENN T. MACNAUGHTON,

Plaintiff,

v.

Civil Action No. 4:12cv95

LAW OFFICES OF SHAPIRO, BROWN & ALT, LLP,
et al.

Defendants.

IMMER E. CAMPOS-CARRANZA,

Plaintiff,

v.

Civil Action No. 4:12cv94

LAW OFFICES OF SHAPIRO, BROWN & ALT, LLP,
et al.

Defendants.

JOINT STATUS REPORT

On April 19, 2012 (Docket Entry 31) and August 17, 2012 (Docket Entry 37), the Court entered an Order consolidating these six proceedings for pretrial and settlement purposes, which also requires the parties to file Joint Status Reports every thirty days beginning on July 13, 2012 to advise the Court of the status of mediation efforts. The last status report to the court was filed on May 3, 2013.

The parties submit the following status report:

1. The parties held an in-person mediation session with Judge Dohnal on October 4, 2012.
2. On November 2, 2012, the parties were granted a 90 day stay of the proceedings to pursue mediation efforts.
3. On December 13, 2012, the parties filed a joint status report and informed the Court of their respective positions concerning the stay and mediation status, as well as the filing of a class action lawsuit was filed by counsel for Plaintiffs against Defendants in the Richmond Division (*Boyd et al. v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No: 3:12-cv-700-REP (hereinafter “*Boyd*”)).
4. Following the filing of the most recent status report, the parties have been communicating in writing and by phone.

Plaintiffs’ Position

5. Defendants did not make a single offer in mediation with Judge Dohnal on October 4, 2012. Defendants sole attempt at settlement either during or post-mediation was to

serve three offers of judgment, those which Plaintiffs accepted¹. Defendants have not made any other offer of judgment on any of the pending cases since the mediation with Judge Dohnal. Since that time, Defendants have not made any other type of offer to resolve these cases even after multiple efforts by the Plaintiffs directly and through the assistance of Judge Dohnal - directly in person or by his effort by telephone. It is the Plaintiffs belief that the Defendants have been disingenuous about wanting to resolve these matters- always wanting to take a wait and see approach- presumably to ride the coattails of other foreclosure trustees in their resolution in other matters with the same Plaintiffs' counsel.

6. Prior to the *Boyd* transfer, Plaintiffs' counsel made offers to resolve all of the pending cases in this Court. One of Plaintiffs' counsel, Kristi Kelly, went so far as to meet in the Fairfax court house with multiple representatives from the Defendants and Defendants' counsel, Mr. Bieramee, to present Plaintiffs' offer at resolution and invite negotiation. It is now months later, and the Defendants have not provided a single counter or attempt at resolution of these matters.

7. Even in the *Redditt*, *Tsvetovat*, and *Fairbank* matters, Plaintiffs proposed private mediation for the fee dispute which the Defendants rejected. Plaintiffs proposed consolidation of the three cases and a settlement conference to preserve the judicial resources, but the Defendants refused to consent to this request. Despite always being open to a resolution, Plaintiffs are ready, willing and able to litigate these matters and request that the stay be removed.

Defendants' Position

¹ *Redditt v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No. 2:12-cv-521-AWA (E.D. Va.); *Fairbank v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No. 4:13-cv-9-AWA (E.D. Va.); and *Tsvetovat v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No. 4:13-cv-16-AWA (E.D. Va.).

6. Defendants are awaiting individual settlement demands on the specific cases that have been filed and are currently stayed. Defendants served offers of judgment in several cases, three of which have been accepted,² and have reached a global settlement with all parties in another case. The only issue remaining for determination in *Redditt*, *Tsvetovat*, and *Fairbanks* are the attorneys' fees motions pending before the Court, which have been fully briefed after negotiations to resolve fee demands were unsuccessful.

7. The *Boyd* class action lawsuit was filed against Defendants in the Richmond Division the afternoon before the mediation session with Judge Dohnal in October 2012, which is a prime example of forum shopping. Defendants filed a motion in *Boyd* to transfer venue and consolidate with this case for pretrial and settlement purposes, which Plaintiffs opposed. Judge Payne recently granted Defendants' request to transfer venue in the *Boyd* case to the Norfolk Division of the Court and determined that the issue of consolidation should be decided by this Court after transfer. In their papers recently filed in the *Redditt*, *Fairbank*, and *Tsvetovat* cases,³ Plaintiffs finally agreed that *Boyd* should be consolidated with this case for pretrial and settlement purposes. Given Plaintiffs' consent to consolidation of *Boyd* with this case for pretrial and settlement purposes, Defendants request the entry of an Order to this effect.

² *Redditt v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No. 2:12-cv-521-AWA (E.D. Va.) ("Redditt"); *Fairbank v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No. 4:13-cv-9-AWA (E.D. Va.) ("Fairbanks"); and *Tsvetovat v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No. 4:13-cv-16-AWA (E.D. Va.) ("Tsvetovat").

³ See *Redditt*, Plaintiff's Reply to Defendant's Response to Plaintiff's Motion to Consolidate, Dkt. 45, at p. 3.; *Fairbank*, Plaintiff's Reply to Defendant's Response to Plaintiff's Motion to Consolidate, Dkt. 30, at pp. 2-3; *Tsvetovat*, Plaintiff's Reply to Defendant's Response to Plaintiff's Motion to Consolidate, Dkt. 27, at pp. 2-3.

8. Now that venue in *Boyd* has been transferred to the Norfolk Division of this Court, Defendants expect to file a motion for judgment on the pleadings. Defendants respectfully request that the Court continue to stay this matter until, at a minimum, the motion for judgment on the pleadings in *Boyd* is filed and ruled upon, which ruling Defendants believe will help to narrow the case and help to crystallize the core issues for both parties in their efforts to resolve this dispute. Defendants submit the allegations leveled against them in the *Boyd* case have brought global settlement negotiations to an impasse.

The parties will continue to file their Joint Status Reports every thirty (30) days to advise the Court of the status of mediation efforts.

Shapiro & Burson, LLP, Shapiro, Brown & Alt, LLP, and Professional Foreclosure Corporation of Virginia

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

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